

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
 SAN FRANCISCO, CA 94105-2219
 VOICE AND TDD (415) 904-5200



The matrix below summarizes the changes to federal regulations implementing the federal consistency requirements of the Coastal Zone Management Act (CZMA). The regulations can be found at 15 CFR Part 930. The federal Office of Ocean and Coastal Resource Management (OCRM) finalized these regulations on December 8, 2000, and they took effect on January 8, 2001.

SECTION #	TITLE	CHANGES
930.4	Conditional Concurrence	<ol style="list-style-type: none"> 1) States can conditionally concur with consistency submittals. 2) If the federal agency, permit applicant, or agency applicant does not modify its plan, project, or application, the conditional concurrence is an objection.
SUBPART C	FEDERAL AGENCY ACTIVITIES AND DEVELOPMENT PROJECTS	The phrase "Direct Effects" is replaced by the phrase "Affecting any coastal use or resource." (This change is consistent with 1990 amendments, which made the above change).
930.31	Federal Activity and Federal Development Project	<ol style="list-style-type: none"> 1) Federal agency activities include any activity that initiates an event or series of events where coastal effects are reasonably foreseeable, e.g., rulemaking, planning, physical alteration, and exclusion of uses. 2) The Federal agency activity category is a residual category for federal actions that are not covered under subparts D, E, or F part 930. 3) General permits (e.g., Corps Nationwide Permits or EPA General NPDES permits) are reviewed as federal agency activities, unless a federal agency chooses to treat the program as a federal permit activity under these regulations. 4) Modifications to existing activities or development projects may require consistency review.

SECTION #	TITLE	CHANGES
930.32	Consistent to the Maximum Extent Practicable	<ol style="list-style-type: none"> 1) Lack of funding does not qualify for Maximum extent practicable exemption. 2) Sets up standards for Emergency or other similar unforeseen circumstances. 3) Standards for classified activities
930.33	Identifying Federal Agency Activities	<ol style="list-style-type: none"> 1) Federal Agencies determine which of their activities affect coastal uses or resources. 2) Coastal effects are a broader category than environmental effects and are based on coastal management program policies. 3) No consultation is required if a federal agency determines that its activity has no affects on any coastal use or resource and a negative determination is not triggered. 4) Federal Agencies with state concurrence can identify de minimus activities. 5) State and federal agencies can exclude environmentally beneficial activities. 6) Eliminates language that exempts OCS lease-sales from consistency review
930.35	Negative Determinations	<ol style="list-style-type: none"> 1) Review period is 60 days (with a possible 15 day additional extension) to disagree with a negative determination. 2) Consistency determination is required if state and federal agency agrees that there are reasonable foreseeable effects.
930.36	National and Regional consistency determinations	<ol style="list-style-type: none"> 1) Allows for such consistency determinations
930.37	NEPA and consistency determinations	<ol style="list-style-type: none"> 1) EIS's can be used as consistency determinations

SECTION #	TITLE	CHANGES
930.39	Content of a consistency determination	<ol style="list-style-type: none"> 1) Maximum extent practicable arguments must be included in the consistency determination. 2) Maximum Extent Practicable arguments can be made after submittal of consistency determination. 3) Federal Agencies must obtain state permits if required by fed laws other than the CZMA.
930.41	State Agency Response	<ol style="list-style-type: none"> 1) Timing is extended from 45 days to 60 days, with automatic 15-day extension, for a total of 75 days. 2) Federal agency must receive state response before the end of the review period. 3) Review period does not start unless the state receives all the necessary data and information. 4) State must immediately notify federal agency that the review period has not begun. 5) Expiration dates on state's concurrence must be agreed to by the federal agency. 6) States cannot require processing fees.
930.42	Public Participation	<ol style="list-style-type: none"> 1) Public participation is required for state's review of consistency determinations, but is not for negative determinations.

SECTION #	TITLE	CHANGES
930.43	State Objections	<ol style="list-style-type: none"> 1) Must cite enforceable policies. 2) Must explain how project is inconsistent with enforceable policies. 3) Identification of alternatives is optional. 4) Federal agency can proceed despite an objection for two reasons: <ol style="list-style-type: none"> a) Federal agency maintains project is consistent to the maximum extent practicable; b) Federal agency maintains project is fully consistent 5) Federal agency must notify state of its decision to proceed despite an objection before the project commences
930.46	Supplemental Coordination for proposed activities	<ol style="list-style-type: none"> 1) Required if the Federal Agency makes substantial changes in proposed project. 2) Required if there are significant new circumstances or information. 3) State agency can make a request for supplemental coordination.
SUBPART D	FEDERAL LICENSES AND PERMITS	
930.51	Federal License or Permit	<ol style="list-style-type: none"> 1) Renewals include re-approvals and extensions, including administrative extensions 2) Withdrawal of a federal application results in withdrawal of consistency certification
930.52	Applicant	<ol style="list-style-type: none"> 1) Applicants include person or group existing under any nation, state, local, or regional government.

SECTION #	TITLE	CHANGES
930.53	Listed Permits	<ol style="list-style-type: none"> 1) Defines description of geographic areas outside the coastal zone. 2) Requires OCRM permission to review areas outside of the coastal zone in absence of or outside of the geographic description
930.54	Unlisted Activities	<ol style="list-style-type: none"> 1) Clarifies that notice triggering approval process for review of unlisted activities is of actual submittal of the application. 2) States and applicants can agree to forego the unlisted procedures.
930.60	Commencement of State Agency Review	<ol style="list-style-type: none"> 1) Review Period does not begin until state receives consistency certification and all the necessary data and information. 2) State must inform an applicant for a federal permit that the review period has not begun within 30 days after receiving the incomplete consistency certification. 3) Applicants and the state can mutually agree to extend time clock for consistency review
930.63	State Agency Objection	<ol style="list-style-type: none"> 1) Objection must be based on enforceable policies. 2) Identification of alternative measures is optional. 3) A conditional concurrence, like an objection, can be appealed to the Secretary of Commerce (930.4).

SECTION #	TITLE	CHANGES
930.65	Remedial Action	<ol style="list-style-type: none"> 1) Allows the state to request OCRM to require a new or amended consistency certification if the following has occurred: <ol style="list-style-type: none"> a) State finds that the previously approved project is conducted in a manner other than is approved or has new coastal zone effects; b) State finds that the performance deviation or new effects makes the project no longer consistent with the coastal management program; and c) The federal permitting agency does not require remedial actions after receiving notice from the state.
930.66	Supplemental coordination	<ol style="list-style-type: none"> 1) See 930.46
SUBPART E	OCS ACTIVITIES	Changes to this section are relatively minor
930.76	Submission of an OCS plan	<ol style="list-style-type: none"> 1) 930.58 identifies the necessary data and information.
930.77	Commencement of Review	<ol style="list-style-type: none"> 1) Review begins when state receives an OCS plan and consistency certification. 2) Allows states to rely on §930.60 to delay the commencement of the review period if the consistency certification is incomplete.
SUBPART F	FEDERAL ASSISTANCE TO STATE AND LOCAL GOVERNMENTS	

SECTION #	TITLE	CHANGES
930.94	State review process for consistency	<ol style="list-style-type: none"> 1) All federal assistance projects are subject to consistency even if they are not processed through the intergovernmental review process. 2) Applicant must provide an analysis of the activity's consistency with enforceable policies of the coastal management program.
930.95	Guidance provided by state agency	<ol style="list-style-type: none"> 1) Gives states an option to list assistance activities. 2) General Geographic description to review activities outside the coastal zone. 3) Makes unlisted activities subject to a requirement to notify the applicant agency, federal agency, and OCRM.
930.96	Consistency Review	<ol style="list-style-type: none"> 1) Federal agencies should not delay processing (so long as they do not approve) the application for federal assistance
930.100	Remedial Review	<ol style="list-style-type: none"> 1) See 930.65
930.101	Supplemental Review	<ol style="list-style-type: none"> 1) See 930.46
SUBPART G	SECRETARIAL MEDIATION	Only minor changes, allows for informal mediation by OCRM

SECTION #	TITLE	CHANGES
SUBPART H	APPEAL PROCEDURES	
930.121	Consistent with the objectives or purpose of the Act	<ol style="list-style-type: none"> 1) Secretary overrides objection only where an activity significantly and substantially furthers the national interests. 2) National interests must outweigh adverse coastal zone effects. 3) Secretary is not limited in the alternatives it considers
930.125	Fees	<ol style="list-style-type: none"> 1) Secretary may require fees for appeals
930.127	Briefs and Supporting material	<ol style="list-style-type: none"> 1) Secretary may consider an appeal of a lack of information objection, but is limited to the information provided to the state at the time of its review.
930.129	Dismissal, Remand, Stay, and Procedural override	<ol style="list-style-type: none"> 1) Secretary may override objection if it finds that the objection was not properly issued. 2) Secretary may require state to re-review an activity if there is significant new information.
SUBPART I	CONSISTENCY OF FEDERAL ACTIVITIES HAVING INTERSTATE COASTAL EFFECTS	<ol style="list-style-type: none"> 1) Establishes procedures for Interstate consistency review. 2) Requires listing of interstate activities. 3) Establishes process for reviewing unlisted interstate activities.